

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case Nos. S-2659 and S-2660

**PETITION OF JEFFREY B. WALCOFF, D.V.M. AND
SHEILA DEARYBURY WALCOFF**

OPINION OF THE BOARD

(Opinion Adopted January 10, 2007 and January 17, 2007)
(Effective Date of Opinion: February 1, 2007)

Case Nos. S-2659 and S-2660 are applications for special exceptions for a Veterinary Hospital and Animal Boarding Place, pursuant to Sections 59-G-2.32 and 59-G-2.02 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the applications on September 25, 2006, closed the record on December 26, 2006, and on December 28, 2006, issued a Report and Recommendation for approval of the special exceptions.

The subject property is located at, 22414 and 22416 Frederick Road, Clarksburg, Maryland, 20871, in the R-200 Zone.

Decision of the Board: Special Exceptions **Granted** Subject
To Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 10, 2007. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation, and grants the special exception. On January 17, 2007, the Board re-opened the record to amend the conditions of approval to include Condition No. 18, which establishes a Community Liaison Council. Therefore, on motions by Wendell M. Holloway, seconded by Caryn L. Hines, with Catherine G. Titus and Allison Ishihara Fultz, Chair in agreement and Donna L. Barron necessarily absent; and by Caryn L. Hines, seconded by Donna L. Barron, with Wendell M. Holloway, Catherine G. Titus and Allison Ishihara Fultz, Chair in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Case Nos. S-2659 and S-2660, Petitions of Jeffrey B. Walcoff and Sheila Dearybury Walcoff are **granted**, subject to the following conditions:

1. The Petitioners shall be bound by all of their testimony and exhibits of record, and by the testimony of their witnesses and representations of counsel identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board.
2. The hours when the facility is open to the public for drop-off and pick up of animals will be limited to 7:00 a.m. to 8 p.m., Monday through Friday, and 7:00 a.m. to 1:00 p.m. on Saturday. Animals may be seen at the veterinary hospital by appointment only, except in emergency situations. This facility is not an after-hours emergency facility, and after-hour calls (except those relating to an animal already in the care of this facility), shall be referred to an emergency clinic. The facility will be staffed after office hours solely to accommodate emergency situations for animals already in care of the facility and to provide care for the animals who must remain overnight for medical purposes and for those being boarded. Scheduled appointment hours may not begin until 9:00 a.m., Monday through Saturday. Monday through Friday, appointments may continue until 7:00 p.m., and the facility will close at 8:00 p.m. On Saturdays, appointments may continue till 12:00 noon, and the facility will close at 1:00 p.m. A written or computer log of all appointments, drop-in and emergency client activities must be kept, and be available for inspection by County authorities. Petitioners must also submit a yearly activities report to the Board of Appeals.
3. The animal boarding facility is limited to forty-nine (49) animals on site at any one time, and the total of dogs 35 lbs. and over will be limited to twenty-three (23) at any one time. The actual number of kenneled animals is expected to be well below 49, except on holidays.
4. No outdoor exercising of animals is permitted on or off site, nor may animals be walked outdoors to relieve themselves. Animals may be walked on a leash within the enclosed area labeled "Dog Walking Area" on the revised site and landscape plan (Exhibit 52(a)), and that should be restricted to daylight hours except in emergencies or when humanitarian considerations require it.
5. The proposed facilities must be designed and constructed in a manner that will insure noise levels within County standards, not to exceed 40 dBA within 10 feet of the facility. On weekdays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 8 a.m. to 6 p.m. and 50 dBA between the hours of 6 p.m. to 8 a.m. On Saturdays, Sundays, and federal holidays, the sound at the nearest receiving property line must not exceed 60 dBA between the hours of 9 a.m. to 6 p.m. and 50 dBA between 6 p.m. and 9 a.m. Terms are defined in accordance with the Montgomery County Noise

Ordinance (Chapter 31B of the Montgomery County Code). In any event, the predicted maximum receiving property line sound levels must not exceed the characteristic ambient sound levels by more than 3 dBA at any time.

6. All litter and animal waste must be contained and controlled on the site.
7. Any accessory operation, such as grooming or the sale of pet food must be limited as an accessory activity to a percentage of sales not to exceed 20%. Goods for sale at this facility will be limited to prescription medicine and prescription pet food.
8. Petitioner shall be limited to a maximum of ten (10) staff (including all veterinarians, support staff and interns) on site at any one time, provided that the number of veterinarians on site at any one time shall not exceed three (3). Kennel staff are expected to come in three times a day on Sundays to walk the animals, as well as to feed, clean, and give them medicine, if needed. The number of staff for the boarding facility will be determined by the number of kenneled animals, generally one for every 10 animals, but at no time shall kennel staff, combined with all other staff on site, exceed the 10 staff limit.
9. Petitioner must provide 17 parking spaces (including one that is van accessible), as shown on the revised site and landscape plan.
10. The parking lot screening fence shown on the revised site and landscape plan (Exhibit 52(a)), shall be constructed out of wood, not brick or plastic, in accordance with the wishes of the neighbors living across Maryland Route 355. It should be a board-on-board fence with vegetation in front of it, as shown on Exhibit 52(a).
11. Lighting on site must be arranged such that there is no light exceeding 0.1 foot candles at the side and rear property lines, as shown on Exhibit 38(h). The pole-mounted lights in the parking lot must be turned off when the facility is not open, except as required for safety.
12. Petitioners may erect a sign in front of their facility, but must first obtain a permit for such sign from the Department of Permitting Services (and if necessary, a sign variance), and copies of that sign permit and any sign variance must be filed with the Board of Appeals.
13. Petitioner must comply with all applicable Federal, State and local regulations regarding safe storage and use of any x-ray equipment on the site.
14. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the

special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

15. Petitioners shall comply with the terms of approved forest conservation, water quality and stormwater management plans, and shall establish and maintain a forest conservation easement in the area shown on the revised site and landscape plan (Exhibit 52(a)).
16. The adequacy of public facilities must be determined by the Planning Board at the time of subdivision review in this case. Therefore, subdivision approval is a condition of these special exceptions.
17. Petitioners shall coordinate with the adjacent John Wesley United Methodist Church (Rocky Hill Church) to allow the latter access to the Petitioners' property for maintenance of cemetery markers and grounds immediately surrounding the markers. Petitioners shall take no action that would be detrimental to the condition of the cemetery markers or the area immediately surrounding the markers.
18. The special exception holder must establish a Community Liaison Council whose membership shall include adjacent and confronting property owners and representatives from local citizens' associations. The People's Counsel shall be an ex officio member of the Committee. The Committee shall meet twice a year and meetings shall be arranged and noticed by the Petitioner.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 1st day of February, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.